



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of an Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice includes the summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments identified by the Docket No. MSHA-2022-0021 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-0021.
2. *Facsimile:* 202-693-9441.
3. *Email:* petitioncomments@dol.gov.
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances.

Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), petitionsformodification@dol.gov (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2022-006-C

Petitioner: ICG Beckley, LLC, P.O. Box 49, Eccles, West Virginia 25836

Mine: Beckley Pocahontas Mine, MSHA ID No. 46-05252, located in Raleigh County, West Virginia.

Regulation Affected: 30 CFR 75.312 (c), Mine Fan Examination and Records.

Modification Request: The petitioner requests a modification of the existing mandatory standard, 30 CFR 75.312 (c), as it relates to examination requirements. ICG Beckley, LLC is requesting a petition for modification for the following reasons (1) Beckley Pocahontas Mine produces 4.9M cubic feet of methane according to the last total liberation results and (2) Stopping the 2500 horsepower (HP) motor can create unnecessary electrical and mechanical wear on the motor.

The petitioner states in lieu of shutting the fan down, the following measures will be implemented:

- (a) A dispatcher is on duty at all times that persons are underground.
- (b) The fan signal is located in the dispatcher's office where it is easily heard.
- (c) The existing automatic fan signal device is a Circular Chart Recorder.
- (d) The fan signal is activated when the fan pressure falls below 3 inches of water gauge as measured by the chart recorder.
- (e) A back-up fan that provides the same quantity of air as the main fan and can easily be started is provided and ready for use.
- (f) Both the main mine fan and back-up fan have operating pressures of approximately 6 inches of water gauge as measured by the chart recorder.
- (g) A ball valve will be installed in the tubing connecting the fan ductwork to the chart recorder to permit continuous monitoring of the fan pressure while the fan is running.
- (h) During the 31-day check in accordance with 30 CFR 75.312 (c), the ball valve to the fan ductwork will be closed allowing the pressure to the chart recorder to drop and signal the alarm.
- (i) The fan pressure signal will be tested by closing the ball valve to simulate pressure loss.

(j) Twice per year, the fan signal will be tested by shutting the fan down in accordance with 30 CFR 75.312 (c).

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the applicable standard.

Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.

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